

SCHOONER ARIEL.

LETTER FROM THE ASSISTANT CLERK OF THE COURT OF CLAIMS,
TRANSMITTING A COPY OF THE CONCLUSIONS OF FACT AND
LAW IN THE FRENCH SPOILIATION CASES RELATING TO THE
SCHOONER ARIEL AGAINST THE UNITED STATES.

JANUARY 30, 1902.—Referred to the Committee on Claims and ordered to be printed.

COURT OF CLAIMS,
Washington, D. C., January 29, 1902.

SIR: Pursuant to the order of the Court of Claims, I transmit herewith the conclusions of law and of fact, filed under the act of January 20, 1885, in the French spoliation claims set out in the annexed findings by the court relating to the vessel schooner *Ariel*, John Compton, master.

Respectfully,

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

HON. DAVID B. HENDERSON,
Speaker of the House of Representatives.

[Court of Claims. French spoiliations. Act of January 20, 1885, 23 Stat. L., 283. Schooner *Ariel*, John Compton, master.]

No. of case.	Claimant.
No. 1193.	William Woodyear, administrator of the estate of Jeremiah Yellott, deceased, <i>v.</i> The United States.
No. 2182.	David Stewart and John E. Semmes, receivers of the Maryland Insurance Company, <i>v.</i> The United States.

PRELIMINARY STATEMENT.

These cases were tried before the Court of Claims on the 5th day of April, 1900. The claimants were represented by John E. Semmes, esq., and the United States, defendants, by the Attorney-General, through his assistant in the Department of Justice, Charles W. Russell, esq., with whom was Assistant Attorney-General Louis A. Pradt.

CONCLUSIONS OF FACT.

The court, upon the evidence and after hearing the arguments and considering the same with the briefs of counsel on each side, determine the facts to be as follows:

I. The schooner *Ariel*, John Compton, master, sailed on a commercial voyage from Baltimore, Md., August 14, 1796, bound for Demarara. On the 2d day of September she encountered a severe gale, which compelled her to change her course for the island of Martinique. On the 10th of September, 1796, while on the high seas between Martinique and Dominica, she was captured by the French privateer

L'Esperance, Captain Cavalier, and carried into the port of Marie Galante, in the island of Guadaloupe, from whence she was subsequently removed to the port of Liberty. Upon her arrival at this port the master of the *Ariel* was forced to sell his cargo, which, among other things, is described in his protest as follows:

"That after the examination of the said papers, the property acknowledged to be American, now the 17th of September (old style) it was signified to him by the principal of the administration that the Republic intended to take his flour and pay him at the rate of 95 livres per barrel in bills of exchange on France at six months' sight; that after this signification he went with the interpreter to the said administrator to represent to him and to try to change the conditions proposed, but all the remonstrances he could make to this effect was useless; so that, seeing they were determined to keep his flour and spare his schooner, which (as the thing spoke for itself) was going to ruin, the declarer saw that he was obliged to accede to the condition offered."

On the 14th day of October following, the executive directory of the Windward Islands, annulled the sale of said cargo and condemned both the vessel and cargo, whereby the same became a total loss to the owners.

The grounds of condemnation set forth in the decree were as follows:

"Considering that the schooner *Ariel*, Capt. John Compton, which sailed from Baltimore, bound to Demarara, a possession taken by treason from the Batavian Republic by the English, the said schooner, laden with flour, has been taken by the privateer *L'Esperance*, according to the verbal decree of the 23d Frucidor last;

"Considering that the English have made use of borrowed names in America in order to construct vessels there for the purpose of carrying men, horses, etc., and that they have armed them against use for cruising;

"Considering that the result of different depositions and letters written from New England is that this vessel is one of those made for the purpose of carrying on war against us;

"Considering that other motives of which an account shall be given to the minister of marine, to be transmitted to the directory, we have determined to pronounce condemnation on the said vessel and her cargo, enjoining the administrator and commandant of the marine as such, as it concerns both, to make an inventory and estimation of the said objects and to charge themselves with the receipt of them;

"Annuling the sale made between the administrator and the said Compton, and the extract of this present taken shall be sent to him to serve him in time and place convenient."

On the 15th day of October, 1796, the day following the condemnation of the vessel and cargo, the master made a second protest, in which it appears:

"A decree of the private agents of the executive directory in the Windward Islands, dated the 23d of this month, by which annulling the flour bargain made between the appearer and the chief of administration of the colony for the amount of the cargo therein mentioned, the said decree orders also, according to reasons thence taken, the confiscation of the said schooner as well as of the cargo.

"In consequence and according to the protestations made by the said appearer, before the undersigned notary, he makes again, for the interests of whomsoever it may concern, all other reserves and protestations," etc.

II. The *Ariel* was a duly registered vessel of the United States of 169 $\frac{1}{2}$ tons burden; was built in Talbot County, in the State of Maryland, in the year 1794, and was owned solely by Jeremiah Yellott, a citizen of the United States and a resident of Baltimore.

III. The cargo of the *Ariel* consisted of 990 $\frac{1}{2}$ barrels of flour, and was owned by the aforesaid Jeremiah Yellott, the owner of the vessel.

IV. The losses by reason of the capture and condemnation of the *Ariel* were as follows:

The value of the vessel	\$7, 712
The freight earnings for the voyage	2, 000
The value of the cargo	9, 905
Premium of insurance paid	2, 000

Amounting in all to 21, 617

V. The Maryland Insurance Company, a corporation existing under the laws of the State of Maryland, by a policy dated August 17, 1796, insured said Jeremiah Yellott on the vessel in the sum of \$10,000 and on the cargo in the sum of \$10,000, at a premium cost to him for both in the sum of \$2,000.

Thereafter, on the 2d day of January, 1797, said insurance company paid to said Jeremiah Yellott the sum of \$19,600, being the amount of said insurance, less the customary rebate of 2 per cent, as and for a total loss thereon.

VI. Case No. 1193. The losses of Jeremiah Yellott, the owner of the *Ariel* and her cargo, by reason of said capture and condemnation were as follows:

The value of the vessel	\$7, 712
The freight earnings for the voyage.....	2, 000
The value of the cargo.....	9, 905
Premium of insurance paid	2, 000
Total.....	21, 617
Less insurance received.....	19, 600
Leaving net loss to him of	2, 017

Included in said sum there was over insurance of \$2,088 on the vessel, which said insurance company is not entitled to recover.

VII. Case No. 2182. David Stewart and John E. Semmes are the duly appointed receivers of the Maryland Insurance Company. The loss to said insurance company was as follows:

Amount of insurance paid to said Jeremiah Yellott on the vessel and cargo, less over insurance of \$2,088 on the vessel, \$17,512.

VIII. Said claims were not embraced in the convention between the United States and the Republic of France, concluded on the 30th of April, 1803, and were not claims growing out of the acts of France allowed and paid in whole or in part under the provisions of the treaty between the United States and Spain, concluded on the 22d of February, 1819, and were not allowed in whole or in part under the provisions of the treaty between the United States and France of the 4th of July, 1831.

William Woodyear is the duly appointed administrator of said Jeremiah Yellott, and in his representative capacity is the owner of said claim which has never been assigned except as aforesaid, nor does it appear that any of said claims are owned by an insurance company except as aforesaid.

CONCLUSIONS OF LAW.

The court decides as conclusions of law that said seizure and condemnation were illegal, and the owners and insurers had valid claims of indemnity therefor upon the French Government prior to the ratification of the convention between the United States and the French Republic concluded on the 30th day of September, 1800; that said claims were relinquished to France by the Government of the United States by said treaty in part consideration of the relinquishment of certain national claims of France against the United States, and that the claimants are entitled to the following sums from the United States:

Case 1193. William Woodyear, administrator of the estate of Jeremiah Yellott, deceased, two thousand and seventeen dollars.....	\$2, 017
Case 2182. David Stewart and John E. Semmes, receivers of the Maryland Insurance Company, seventeen thousand five hundred and twelve dollars.....	17, 512
Amounting in all to the sum of nineteen thousand five hundred and twenty-nine dollars.....	19, 529

BY THE COURT.

Filed April 8, 1901.

A true copy.

Test this 29th day of January, A. D. 1902.

[SEAL.]

JOHN RANDOLPH,
Assistant Clerk Court of Claims.

